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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,967	03/31/2004	Toshihiro Morita	251011US6	4875
22850	7590	02/26/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER	
			OLANIRAN, FATIMAT O	
			ART UNIT	PAPER NUMBER
			2615	
			NOTIFICATION DATE	DELIVERY MODE
			02/26/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/812,967	<b>Applicant(s)</b> MORITA ET AL.	
	<b>Examiner</b> FATIMAT O. OLANIRAN	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/24/2007</u> .   | 6) <input type="checkbox"/> Other: ____                           |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-4 are generally narrative and indefinite, failing to conform with current U.S. practice. The claim language is idiomatic and appears to be an inaccurate translation of a foreign document.

Claim 2, line 3-7, "...wherein said inter-track boundaries specifying means specifies as said inter-track boundaries said presumed inter-track boundaries dividing said presumed tracks whose presumed track playing times of presumed tracks presumed to be tracks divided by said inter-track boundaries are greater than said minimum playing time..." It is unclear from the claim language what the presumed tracks are being divided by.

Claim 3, line 3-7, "...wherein said inter-track boundaries specifying means presumes said presumed inter-track boundaries as said inter-track boundaries based on an error between the presumed track playing time of presumed tracks presumed to be tracks divided by said presumed inter-track boundaries and said playing time..." It is unclear from the claim language what the error is between and what the presumed track playing time is divided by.

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Claim 4, line 1-6, "...said inter-track boundaries specifying means compares the number of presumed tracks for the presumed tracks presumed to be tracks divided by said presumed inter-track boundaries detected by said presumed inter-track boundaries detecting means with said number of tracks, using the number of tracks of said plurality of tracks as said inter-track boundaries specifying information..." It is unclear from the claim language what the specifying means compares and what the presumed tracks are divided by.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howells et al (4893197) in view of Chen (2004/0146165).

Claim 1, Howells discloses an information processing apparatus for detecting inter-track boundaries (col. 3 line 33-36), audio data generated by digitally converting analog audio signals of a plurality of tracks whose inter-track boundaries are produced of silent portions (col. 3 line 33-36); presumed inter-track boundaries detecting means for detecting presumed inter-track boundaries presumed to be the inter-track boundaries for said plurality of tracks based on the portions of said noise eliminated audio data

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whose signal levels are lower than a predetermined level threshold value (col. 3 line 37-43); and inter-track boundaries specifying means for specifying said inter-track boundaries based on the inter-track boundaries specifying information of said presumed inter-track boundaries detected by said presumed inter-track boundaries detecting means (col. 3 line 44-49).

Howell does not disclose music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data.

Chen discloses music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data and audio signals of music (paragraph 2 line 3-4 and paragraph 17 line 1-2).

Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the playback apparatus of Howell with the noise cancellation method of Chen in order to be able to produce audio with high fidelity.

It would also be obvious to one of ordinary skill in the art at the time the invention was made to modify the digital audio playback apparatus of Howell with a digital music sound source as disclosed by Chen in order to remove or add pauses of a user-desired length to the digital music collection.

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Claim 5, Howell discloses an information processing method for detecting inter-track boundaries, comprising audio data generated by digitally converting analog audio signals of a plurality of tracks whose inter-track boundaries are produced of silent portions; the presumed inter-track boundaries detecting step of detecting presumed inter-track boundaries presumed to be the inter-track boundaries for said plurality of tracks based on the portions of said noise eliminated audio data whose signal levels are lower than a predetermined level threshold value (col. 3 line 37-43 and col. 9 line 65-68); and the inter-track boundaries specifying step of specifying said inter-track boundaries based on the inter-track boundaries specifying information of said detected presumed inter-track boundaries detected (col. 10 line 40-47).

Howell does not disclose music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data.

Chen discloses music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data and audio signals of music (paragraph 2 line 3-4 and paragraph 17 line 1-2).

Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the playback apparatus of Howell with the noise cancellation method of Chen in order to be able to produce audio with high fidelity.

It would also be obvious to one of ordinary skill in the art at the time the invention was made to modify the digital audio playback apparatus of Howell with a digital music

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sound source as disclosed by Chen in order to remove or add pauses of a user-desired length to the digital music collection.

Claim 6, Howell discloses, an information processing program to detect inter-track boundaries, the program causing a computer to perform (col. 10 line 16-23): to audio data generated by digitally converting analog audio signals of a plurality of tracks whose inter-track boundaries are produced of silent portions; the presumed inter-track boundaries detecting step of detecting presumed inter-track boundaries presumed to be the inter-track boundaries for said plurality of tracks based on the portions of said noise eliminated audio data whose signal levels are lower than a predetermined level threshold value (col. 9 line 66-68); and the inter-track boundaries specifying step of specifying said inter-track boundaries based on the inter-track boundaries specifying information of said detected presumed inter-track boundaries detected (col. 10 line 40-44).

Howell does not disclose music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data.

Chen discloses music of a plurality of tracks and noise eliminating means for generating noise eliminated audio data by performing a noise eliminating process to audio data and audio signals of music (paragraph 2 line 3-4 and paragraph 17 line 1-2).

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Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the playback apparatus of Howell with the noise cancellation method of Chen in order to be able to produce audio with high fidelity.

It would also be obvious to one of ordinary skill in the art at the time the invention was made to modify the digital audio playback apparatus of Howell with a digital music sound source as disclosed by Chen in order to remove or add pauses of a user-desired length to the digital music collection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Karban et al (4376874)

Keller et al. (2004/0001395)

Moll (4280192)

Morisawa (4628372)

Nishiyama (7024004)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FATIMAT O. OLANIRAN whose telephone number is (571)270-3437. The examiner can normally be reached on M-F Alt F off 8:30-5 EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FO

  
VIVIAN CHIN  
SUPERVISORY PATENT EXAMINER